

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	4:17CR3038
Plaintiff,)	
)	
)	
v.)	
)	DEFENDANT’S OBJECTIONS TO
)	PRESENTENCE INVESTIGATION
MICHAEL W. PARSONS,)	REPORT
Defendant.)	

COMES NOW the Defendant, Michael W. Parsons, by and through his attorney, Donald L. Schense, and offers the following objections to the PSR:

The Defendant objects to certain paragraphs of the Government’s version and offers comments specifically on the following paragraphs:

- (1) Paragraph 24, 33-37-The Defendant objects to the Government’s inclusion in it’s version of the case as it relates to what is described as “a potential kidnapping plot”. The Defendant specifically objects to the statements in this paragraph as the Government acknowledges that the Defendant did not engage in any of the alleged events offered in this paragraph and that he had no knowledge of the existence of any “plot”. It simply would not be fair or just to have the Court take this activity into consideration when deciding an appropriate sentence for this Defendant.
- (2) Paragraphs 26,40-The Defendant exercised his right to testify in his own

behalf at trial, a right guaranteed to all through the United States Constitution. Although the Defendant was convicted at trial he should not be penalized for an obstruction of justice for offering testimony to the jury that was rejected. The jury's charge was to decide if the Government met the necessary burden of proof to secure a conviction. The Defendant objects that he should automatically be assessed an obstruction because he asserted his right to testify. The Court can observe the demeanor of any witness while testifying including the Defendant. Undersigned counsel would submit that what the Defendant testified to at trial is what he believed to be true and correct. This was not an effort to obstruct.

- (3) Paragraphs 43-The Defendant objects to the 4 point enhancement under USSG 2K2.1(b)(6)(A). The evidence at trial was insufficient to warrant or sustain this enhancement and it should not be applied.
- (4) Paragraph 47-The Defendant strongly objects to this paragraph suggesting an enhancement under USSG 3C1.1. The Defendant outlined his reasons for this objection in Paragraph 2 above. Additionally, it is not warranted to apply this enhancement alleging that the Defendant "willfully obstructed or impeded the administration of justice". While it is true that the Defendant was convicted he still is entitled to exercise his right to testify in his own behalf. It would be suggested to the Court by counsel that a jury conviction wherein a Defendant has testified in his own behalf should not thereby, without question or analysis, constitute an automatic obstruction of justice.

- (5) Paragraph 56- The Defendant objects to this paragraph and questions whether, or not, the Defendant was actually convicted as indicated. A request is made on behalf of the Defendant to be allowed to review the documents relied upon by US Probation to support the finding that a conviction resulted from this incident.
- (6) Paragraph 95-The Defendant objects to the computations for criminal history and will submit a Motion for a Downward Departure based upon an overrepresentation of criminal history premised upon USSG 4A1.3. The Defendant additionally objects to the findings in this paragraph chiefly among them the finding that the Defendant has a guideline range of 97-120 months. The Defendant suggests that after a resolution of the all of the above noted objections it will be necessary to do another calculation as to their possible applicability to this Defendant.
- (7) To the extent that the foregoing objections require evidence to resolve them, the Defendant hereby requests an evidentiary hearing.

MICHAEL W. PARSONS, Defendant.

BY: /S/ DONALD L. SCHENSE
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was E-FILED and electronically mailed to:

Jan W. Sharp
United States Attorney's Office
1620 Dodge Street, Suite 1400
Omaha, NE 68102

EMAILED TO: Laura L. Baumann
402-661-7541

this 29th day of October, 2018.

/S/ Donald L. Schense